



Virginia  
Regulatory  
Town Hall

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## Emergency Regulation Agency Background Document

<b>Agency name</b>	State Council of Higher Education for Virginia
<b>Virginia Administrative Code (VAC) citation</b>	8 VAC 40 - 31
<b>Regulation title</b>	Regulations Governing the Certification of Certain Institutions to Confer Degrees, Diplomas and Certificates
<b>Action title</b>	Provide rules and instructions for Institutions of Higher Education to obtain a Certificate to Operate in Virginia
<b>Document preparation date</b>	October 18, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Preamble

*The APA (Code of Virginia § 2.2-4011) states that an “emergency situation” is: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date.*

- 1) Please explain why this is an “emergency situation” as described above.*
- 2) Summarize the key provisions of the new regulation or substantive changes to an existing regulation.*

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Enter statement here

These regulations will be the primary document that the State Council of Higher Education for Virginia uses to administer the certification of private and out-of-state postsecondary schools and institutions of higher learning. The regulations define terms unique to school certification; identify the regulated community, exempted schools, and exempted degrees; establish certification criteria and procedures for application and appeal; and impose fees. These regulations supplant the previous process of approval in 8 VAC 40-30.

**Legal basis**

*Other than the emergency authority described above, please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and 2) the promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Enter statement here

The State Council of Higher Education for Virginia is granted explicit authority to promulgate regulations necessary to implement the provisions of Section 23-276.3 of the Code of Virginia – “The State Council of Higher Education for Virginia shall adopt, pursuant to the Administrative Process Act (§2-2.4000 et seq) such regulations as may be necessary to implement the provisions of this chapter.”

**Substance**

*Please detail any changes that are proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Set forth the specific reasons the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of Virginians.*

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
8 VAC 40-31	N/A		To prevent lapse in regulations

Enter any other statement here

**Alternatives**

*Please describe all viable alternatives to the proposed regulatory action that have been considered to meet the essential purpose of the action.*

Enter statement here n/a

**Family impact**

*Please assess the impact of the emergency regulatory action on the institution of the family and family stability.*

Enter statement here

N/a